

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
Top Ten Practice Tips from the Clerk's Office

- 1) **Mandatory Electronic Filing:** Attorneys must be Fourth Circuit bar members and must register for electronic filing to practice in the Fourth Circuit. Registration for electronic filing requires that counsel correctly answer 8 out of 10 questions about our filing procedures and obtain a login and password from the PACER Service Center, so allow yourself a little time to go through this process.
- 2) **Sealed Filings:** The Fourth Circuit uses only a public docket. Therefore, docket entries must not include any sealed information, and sealed documents must be filed using a **Sealed Brief**, **Sealed Appendix**, or **Sealed Document** entry, since these entries limit document access to court users only. Sealed documents must be served on opposing counsel in paper form. In addition, sealed documents must be accompanied by either a certificate stating that the material was sealed in the district court or a motion to seal seeking to seal new material on appeal. Generally, counsel will be required to file a public brief with sealed material redacted, a sealed brief with sealed material highlighted, and a certificate of confidentiality stating that the redacted material was sealed in the district court. For the appendix, any sealed material must be placed in a separate, sealed volume of the appendix and filed with a certificate of confidentiality.
- 3) **Personal Data Identifiers:** Attorneys are required to redact from their filings the personal data identifiers protected by the federal rules:
 - ✓ Social Security & EIN Numbers – use last four digits only
 - ✓ Names of Minor Children – use initials only
 - ✓ Dates of Birth – use year only
 - ✓ Financial Account Numbers – use last four digits only
 - ✓ Home Addresses in Criminal Cases – use city and state onlyThe electronic filing system automatically protects party filings in immigration and social security cases by restricting electronic access to the court and the parties only; therefore, redaction of personal data identifiers is not required. To access their filings in an immigration or social security case, counsel must use their CM/ECF login.
- 4) **Appellant's Docketing Statement:** Use the jurisdictional section of the docketing statement to be sure there is no jurisdictional problem with the appeal. The court does not issue a show cause notice for jurisdictional problems but relies on counsel to raise any jurisdictional issues by appropriate motion. For cases in which there was a trial or hearing, be sure to order all necessary transcript at the beginning of the case and to attach a copy of the transcript order to your docketing statement.
- 5) **Motion Practice:** Motions must include a statement regarding whether opposing counsel consents to the requested relief or intends to file a response in opposition. Motions for extension of briefing deadlines are disfavored and will not be granted without a specific and adequate statement of reasons even if opposing counsel consents to the extension.

- 6) Paper and Electronic Copies of Briefs: The court requires that briefs be filed in searchable PDF format. The court also requires 8 paper copies of briefs (6 if counsel was court-appointed). Service of a paper copy of the brief on opposing counsel is not required, though counsel may agree to serve paper copies as a matter of convenience.
- 7) Paper and Electronic Copies of Appendix: The court requires that the appellant file either a full electronic version of the joint appendix or an excerpted electronic appendix containing (1) any sealed documents, (2) any documents available only in paper form in the record, (3) any documents filed by the parties in a social security case, (4) any pertinent opinion, findings or recommendations of a magistrate judge or bankruptcy court, (5) the opinion and order or judgment appealed, and (6) the notice of appeal. If an excerpted electronic appendix is used, the briefs must cite to both the paper appendix and the electronic district court record (JA 33; DE 2 at 7). Whichever electronic appendix option is used, appellant must file 6 paper copies (5 if counsel was court-appointed) of the full appendix. Service of a paper copy of the appendix on opposing counsel is not required if appellant files a full electronic appendix, but is required if appellant files an excerpted electronic appendix.
- 8) Brief Tips:
- ✓ Use the checklist sent with the briefing order.
 - ✓ Use 1-sided copying and securely bind the brief down the left side.
 - ✓ Motions to exceed the length limitations should be filed only in exceptional cases.
 - ✓ If oral argument is desired, include a statement explaining why argument is needed.
 - ✓ All parties to a side join in one brief unless leave is granted for separate briefing.
- 9) Appendix Tips:
- ✓ Use 2-sided copying and securely bind the appendix down left side.
 - ✓ Do not use condensed transcript.
 - ✓ All transcript pages must identify the witness and stage of examination in the header.
 - ✓ Include a detailed table of contents, identifying individual witnesses and exhibits.
 - ✓ Place sealed material in a separate, sealed volume of the appendix; in consolidated criminal appeals, separate sealed volumes are required for each defendant's pre-sentence report to permit service only on that defendant.
 - ✓ Include the district court docket sheet as the first document and the indictment or complaint as the next document. Include the district court's opinion and judgment, and any magistrate judge's recommendation, as well as the notice of appeal. Include any other documents necessary for the court's understanding of the issues.
- 10) Oral Argument: Notify the clerk's office of any conflict with a proposed argument session by the date set in the notice of proposed session assignment. It is difficult to obtain a continuance after the case has been calendared for a date certain. Oral argument audio links are made available on the court's Web site, www.ca4.uscourts.gov, two days after argument. Keep this in mind when arguing so that you do not refer to information your client might not want on the Internet.